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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re: Cathode Ray Tube (CRT)
ANTITRUST LITIGATION

This Document Relates To Individual Case No.
3:11-cv-06275-SC

Master File No. 3:07-md-05944-SC

MDL No. 1917

INTERBOND CORPORATION OF
AMERICA,

Plaintiff,

vs.

HITACHI, LTD., *et al.*,

Defendants.

**LARY SINEWITZ DECLARATION IN
SUPPORT OF DIRECT ACTION
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED UPON
PLAINTIFFS' PURPORTED FAILURE
TO DISTINGUISH BETWEEN
ACTIONABLE AND NON-ACTIONABLE
DAMAGES UNDER THE FTAIA**

Judge: Hon. Samuel P. Conti
Court: Courtroom 1, 17th Floor
Date: February 6, 2015
Time: 10:00 a.m.

1 I, Lary Sinewitz, hereby declare as follows:

2 1. I am currently Executive Vice President of Interbond Corporation of America
3 d/b/a BrandsMart ("BrandsMart"). I make this declaration based on my personal knowledge.

4 2. I gave corporate representative testimony on behalf of BrandsMart in this action,
5 and testified on BrandsMart's behalf as to its practices for purchasing and acquiring CRT
6 Products during the Relevant Period of 1995 through 2007.

7 3. During the Relevant Period, BrandsMart made its purchases of CRT Products
8 exclusively from locations in the United States, as reflected at pages 335 to 336 of
9 BrandsMart's corporate representative deposition testimony, a true and correct copy of which is
10 attached hereto as Exhibit 1.

11 4. During the Relevant Period, BrandsMart purchased CRT Products exclusively
12 from vendors which were within the United States, as reflected at pages 27 and 65 of
13 BrandsMart's corporate representative testimony, a true and correct copy of which is attached
14 hereto as Exhibit 2.

15 5. During the Relevant Period, BrandsMart purchased CRT Products directly from
16 Defendants, co-conspirators and their affiliates, all of which were located in the United States,
17 as reflected in the purchase data BrandsMart produced in this litigation.

18 6. BrandsMart's vendors, including Defendants, co-conspirators and their affiliates,
19 shipped these CRT Products to BrandsMart's locations in the United States, as reflected at
20 pages 43 to 44 and 128 of BrandsMart's corporate representative testimony, a true and correct
21 copy of which is attached hereto as Exhibit 3.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed this 17th day of December, 2014, at Hollywood, Florida.

24
25 By: 
26 Lary Sinewitz

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT))
ANTITRUST LITIGATION) Case No.
_____) 07-5944 SC
)
This Document Relates to:) MDL No. 1917
)
ALL ACTIONS)
)
_____)

CONFIDENTIAL TRANSCRIPT

VIDEOTAPED LARY SINEWITZ, AS CORPORATE
DEPOSITION OF: REPRESENTATIVE OF INTERBOND
CORPORATION OF AMERICA d/b/a
BRANDSMART USA, PURSUANT TO
RULE 30(b)(6)

TAKEN ON BEHALF OF: THE DEFENDANTS, SAMSUNG SDI

DATE TAKEN: THURSDAY, FEBRUARY 6, 2014

TIME: 9:38 A.M. - 6:23 P.M.

PLACE: BOIES, SCHILLER & FLEXNER
100 SOUTHEAST SECOND AVENUE
SUITE 2800
MIAMI, FLORIDA 33131

TAKEN BEFORE: NINETTE BUTLER, RPR, CRR,
FPR AND NOTARY PUBLIC

1 States and elsewhere directly and indirectly from
2 Defendants, and/or Defendants' subsidiaries and
3 affiliates and/or agents Defendants or Defendants'
4 subsidiaries and affiliates controlled."

18:12 5 Do you see that?

6 A. Yes.

7 Q. Where it says, "in the United States and
8 elsewhere," can you tell me what the -- what it means by
9 "elsewhere"?

18:12 10 MR. TIETJEN: I object to form. And I have
11 the same objection I had previously with regard
12 this document, that it's a legal document created
13 on behalf of the client. And he can answer to the
14 extent he has any knowledge.

18:12 15 THE WITNESS: We purchased all our product in
16 the United States.

17 BY MR. FOSTER:

18 Q. So do you know why this says "and elsewhere"
19 here in Paragraph 9 of the Complaint?

18:12 20 MR. TIETJEN: Object to the form.

21 THE WITNESS: I think the answer was just
22 given to you, that I didn't create this document.

23 BY MR. FOSTER:

24 Q. You reviewed it before it was filed, I think
18:12 25 you said that before, right?

1 A. I think this is a zillion pages long, mostly
2 legalese and mostly -- you know, did I miss a sentence?
3 Yes, I may have.

4 Q. Do you think that's inaccurate?

18:13 5 MR. TIETJEN: Objection to the form. And I
6 have the same objection that I just stated about
7 the use of this document.

8 BY MR. FOSTER:

9 Q. Go ahead.

18:13 10 A. I believe that everything we bought was bought
11 in the United States.

12 Q. So you think that that's inaccurate, to say
13 "and elsewhere"?

14 MR. TIETJEN: Objection to the form. And my
18:13 15 same objection stands here.

16 THE WITNESS: I don't know that we bought
17 anything outside of the United States, so --

18 BY MR. FOSTER:

19 Q. So just to my question, sir, based on your
18:13 20 knowledge, as you sit here today, that statement is
21 inaccurate, from your knowledge.

22 MR. TIETJEN: Objection. It's asked and
23 answered three times now.

24 BY MR. FOSTER:

18:13 25 Q. Go ahead.

Exhibit 2

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FPR AND NOTARY PUBLIC

1 person just didn't walk down the street on the Palmetto
2 and come into shop.

3 Q. During your time as manager of these two
4 stores, were you responsible for buying CRT products?

10:05 5 A. In the time before I went to Sawgrass, I was.

6 Q. And what was your role in purchasing CRT
7 products?

8 A. I was the buyer. I purchased the product.

9 Q. You dealt directly with CRT product makers?

10:05 10 MR. TIETJEN: Object to the form.

11 BY MR. CUNNINGHAM:

12 Q. Is that right?

13 A. I dealt with the reps from the manufacturers
14 who would come in and sell to us. But, I mean, I never
10:05 15 dealt directly with XYZ corporation. I dealt with their
16 agents that worked here in the United States.

17 Q. You said in 1991 BrandsMart opened its third
18 store; is that correct?

19 A. Correct.

10:06 20 Q. And where was that?

21 A. It's in Deerfield Beach, Florida.

22 Q. And in 1991, you managed that store?

23 A. Correct. I ran both of them.

24 Q. Did your duties and responsibilities differ in
10:06 25 any way when you made that change?

1 directly from a foreign company?

2 A. No.

3 Q. Do you know -- let me try a few others.

4 Do you know the name of the Toshiba entity
11:09 5 from which BrandsMart purchased CRT products?

6 MR. TIETJEN: Object to the form.

7 THE WITNESS: Again, you're going to find that
8 it's something of America. I don't know if it was
9 just Toshiba of America or -- and, again, if you go
11:09 10 back and look at the data, it tells you who we
11 bought it from. I looked at those forms yesterday
12 and realized there were lots of names of companies.
13 And, to be perfectly honest with you, to me, I
14 bought Toshiba from the Toshiba rep who was based
11:09 15 out of wherever Toshiba was based here in the
16 United States. I never really cared as to why --
17 you know, what the physical name on the purchase
18 order was. We were buying something from a US
19 representative in the US sales division.

11:10 20 BY MR. CUNNINGHAM:

21 Q. I appreciate that. I'm just asking for your
22 best recollection, as you sit here.

23 What companies did BrandsMart purchase CRT
24 monitors from?

11:10 25 A. I know we bought a lot from Philips, which was

Exhibit 3

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1 A. Are we still talking to the relevant period?

2 Q. Yes.

3 A. The answer is no.

4 Q. What about after the relevant period?

10:27 5 A. After the relevant period, we have gone to
6 Internet sales, and we do have some third-party provider
7 type people who web -- web -- I'm not sure of the exact
8 technical term, but they -- web deals and things of that
9 sort. There's one that's something junction, and they
10:27 10 basically -- for a fee, they promote our website. But
11 none of that existed during this period.

12 Q. Other than the stores and the clearance center
13 that we've talked about, did BrandsMart have any other
14 locations during the relevant period?

10:27 15 A. No.

16 Q. Did it have any warehouses?

17 A. Yes.

18 Q. Where did it have a warehouse?

19 A. There's a warehouse in South Florida, in
10:27 20 Hollywood, Florida. And we have a warehouse up in
21 Georgia in a town called Ellenwood.

22 Q. So it currently has three warehouses?

23 A. Two.

24 Q. South Florida and Hollywood, Florida, is one
10:28 25 and the same, correct?

1 A. Hollywood is in South Florida.

2 Q. So which of those warehouses did BrandsMart
3 open first?

4 A. Hollywood.

10:28 5 Q. When did it open the Hollywood warehouse?

6 A. The one we're presently in now is almost 20
7 years old, so '93, I guess. Somewhere in the early
8 '90s.

9 Q. And when did it open the warehouse in Georgia?

10:28 10 A. When we opened in Georgia in the early 2000s.

11 Q. Other than those two locations, did BrandsMart
12 have any other warehouses during relevant period?

13 A. We were in another warehouse in Miami that we
14 closed when we opened up the one in Hollywood.

10:29 15 Q. Any others?

16 A. No.

17 Q. Does BrandsMart have any office locations?

18 A. Yes.

19 Q. Where are its offices?

10:29 20 A. In the same building that our warehouse is
21 here, is our corporate offices.

22 Q. When you say "here," you mean South Florida?

23 A. Hollywood.

24 Q. Did it have any offices during the relevant
10:29 25 period other than at that Hollywood location?

1 purchases that it paid for through a check that issued
2 from a Georgia account?

3 MR. TIETJEN: Objection to the form.

4 THE WITNESS: No.

13:23 5 BY MR. CUNNINGHAM:

6 Q. Where did BrandsMart receive the CRT products
7 it bought?

8 A. And, again, when we go look at the documents,
9 if it's the same document that I saw yesterday, it'll
13:23 10 tell you right on it it was either received in what's
11 called IVT, which is the Hollywood location, or ADC,
12 which is the Atlanta distribution center. But the
13 majority of the goods are all received in Florida.

14 Q. Were products ever shipped -- strike that.

13:24 15 Were CRT products ever shipped directly to the
16 stores?

17 A. I'm not going to be able tell you a hundred
18 percent no, but 99 and 9/10ths, no. About the only
19 thing we ever took to the store level may be like small
13:24 20 accessories because it's just so hard to handle. TVs
21 got delivered to the warehouse and then distributed out.

22 Q. And at what point in the process did
23 BrandsMart take title to the product?

24 A. The best of my ability to know this is there's
13:24 25 receipt of goods. So that means when the truck shows